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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,621	10/12/2001	Bernhard Erich Hermann Claus	RD 28,415	1672

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EXAMINER

CHEN, WENPENG

ART UNIT

PAPER NUMBER

2624

DATE MAILED: 11/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/976,621	Applicant(s) CLAUS ET AL.	
	Examiner Wenpeng Chen	Art Unit 2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-39 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/22/02, 7/16/02</u> . | 6) <input type="checkbox"/> Other: ____ |

Examiner's Comment

1. Claims 24-25 will be objected to in the further examination process because system claim 24 depends from method claim 10.

Election/Restrictions

2. This application contains claims directed to the following patentably distinct species of the claimed invention:

- Species 1 corresponding to Fig. 1 and element 70 of Fig. 2 to process backprojected data using a non-linear operator with a maximum operator (the Examiner suggesting to include Claims 1-2, 13-15, 26-28, 39, 3, 16, and 29 if Species 1 being elected);

- Species 2 corresponding to Fig. 1 and element 72 of Fig. 2 to process backprojected data using a non-linear operator with a minimum operator (the Examiner suggesting to include Claims 1-2, 13-15, 26-28, 39, 4, 17, and 30 if Species 2 being elected);

- Species 3 corresponding to Fig. 1 and element 74 of Fig. 2 to process backprojected data using a non-linear operator with a median operator (the Examiner suggesting to include Claims 1-2, 13-15, 26-28, 39, 5-6, 18-19, and 31-32 if Species 3 being elected);

- Species 4 corresponding to Fig. 1 and element 76 of Fig. 2 to process backprojected data using a non-linear operator with a average operator (the Examiner suggesting to include Claims 1-2, 13-15, 26-28, 39, 7, 10-12, 20, 23-25, 33, and 36-38 if Species 4 being elected);

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- Species 5 corresponding to Fig. 1 and element 78 of Fig. 2 to process backprojected data using a non-linear operator with a binary operator (the Examiner suggesting to include Claims 1-2, 13-15, 26-28, 39, 8, 21, and 34 if Species 5 being elected);

- Species 6 corresponding to Fig. 1 and element 80 of Fig. 2 to process backprojected data using a non-linear operator with a monotonic operator (the Examiner suggesting to include Claims 1-2, 13-15, 26-28, 39, 9, 22, and 35 if Species 6 being elected).

As evidently shown above, each of Species 1-6 uses a distinct nonlinear operator. Therefore, each represents a distinct species. In the above, Claims 1-2, 13-15, 26-28, and 39 form the common set of claims that the Examiner decides to examine in any elected species.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, Claims 1, 14, and 27 are generic to the set of Claims 2-10, 15-23, and 28-36, respectively.

3. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after

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the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

4. A telephone call was made to Mr. Thomas Fisher on 10/26/2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

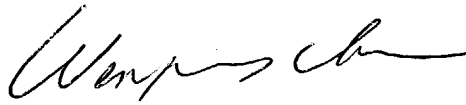
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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wenpeng Chen whose telephone number is 703 306-2796. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K Moore can be reached on 703 308-7452. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wenpeng Chen
Primary Examiner
Art Unit 2624


10/28/04